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C O N F I D E N T I A L SECTION 01 OF 02 BANGKOK 003481

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SUBJECT: ATTORNEY GENERAL CONSIDERS POSSIBLE DISBANDING OF THAI RAK THAI

Classified By: Political Counselor Susan M. Sutton, reason 1.4 (b) (d)

¶1. (C) SUMMARY: The Election Commission has forwarded the Thai Rak Thai (TRT) election fraud case to the Office of the Attorney General (OAG). The EC did not include a recommendation, advising whether the party should be disbanded under the terms of the Political Parties Act, as it was supposed to. The OAG will meet on June 16 to consider whether to return the case to the EC and require it to give a recommendation, or investigate the case itself and then forward its findings to the Constitutional Court for decision. Meanwhile, the draft schedule for the new round of elections, approved by the government but not yet by the King, would have the vote on October 15, with candidate registration ending by September 12. Since candidates must be members of their party for 90 days before registering, time is getting short indeed for TRT members considering jumping ship. If the Court decides to disband the party, we anticipate that efforts will be made to find an accommodation to permit TRT members not implicated in the electoral fraud to get back into the race. The longer it takes to reach a decision, however, the more complicated it will be to find a way to do that. End summary.

FRAUD WILL OUT

¶2. (SBU) According to the deputy spokesman at the Office of the Attorney General (OAG), the Election Commission (EC) has forwarded to them a case concerning the possible disbanding of the ruling Thai Rak Thai (TRT) party. The petition is based on the report of an EC subcommittee, which found merit in the accusations against TRT brought by the Democrat Party.

The DP alleged that TRT paid off several small parties to get them to run candidates in the April election, and assisted them in falsifying documents to qualify their candidates. (This enabled TRT to avoid the mandatory 20 percent minimum vote requirement for candidates running unopposed.) The EC subcommittee report had been completed on May 8 and details were leaked and widely reported in the press shortly thereafter, making it difficult for the EC to sit on the case any longer. According to the leaked accounts, the report, prepared by a respected Supreme Court judge, recommended that TRT be dissolved. It reportedly found that the extent of the electoral fraud and the amounts of money involved meant that the actions were not the initiative of a single party member (the evidence fingers Defense Minister Thammarak), but were the responsibility of the party itself. The subcommission reportedly recommended that the party leadership, including PM Thaksin, be held accountable. (The law envisions banning from political office for up to five years as the penalty in such cases.)

PASSING THE BUCK

¶3. (C) The EC has also forwarded petitions on two of the microparties involved in the scandal. In the case of these two, the EC recommended that they be disbanded due to their involvement in the election fraud. In the case of TRT, however, the EC (considered a bulwark of support for TRT) forwarded the case to the Attorney General without including a recommendation.

¶4. (SBU) The Attorney General has two choices. It can return the case to the EC, and request that the EC give its recommendation. The spokesman told us that this option could involve a joint OAG/EC committee to consider the case, or the EC could be required to reconsider the case itself and then return the case to the OAG with a recommendation. The current groundswell of popular opposition to the Election Commissioners, who have been directly attacked by the courts and repeatedly pressured to resign, argues against seeking their opinion. Alternatively, the OAG could decide to the accept the case as received, and conduct its own assessment. This would leave the OAG holding the bag for a potentially fatal attack on TRT, which may be a little much for their nerves. Neither option is very attractive for the OAG; the deputy spokesman said that the OAG would meet on June 16 to consider its decision. In either case, the OAG is tasked with investigating the case and forwarding the result to the Constitutional Court for a ruling. The spokesman could not provide any useful estimate on how long this whole process

could take.

TIMING IS EVERYTHING

15. (C) The issue of timing is very important for TRT members. The Cabinet has approved a draft royal decree, which would set the election date for October 15. Candidate registration for party list candidates would be September 5-7, and for constituency candidates September 8-12, as the decree is currently written. Candidates must be members of their party for 90 days before they register, which means the very last deadline for switching parties. According to this timetable, would be early next week; it is already too late to qualify for the party list of a new party. According to the current plan, the decree will be forwarded to the King for his signature in August. (Once the decree is issued, the election must be held within 60 days, so it cannot be issued sooner).

COMMENT

16. (C) The EC's decision to forward the TRT case to the Attorney General is more bad news for TRT, but we can't start planning the funeral yet. It is technically possible that the OAG and the Court could take weeks to decide the TRT case, then dissolve the party, and leave TRT members with insufficient time to re-register with another party and qualify to run in October. However, we think that this is not a very likely outcome. If TRT is dissolved, we would anticipate there would be an effort to shift the date of candidate registration, if not the election date, to allow TRT members to get back in the game. However, the longer the EC, the OAG and the Courts shuffle the case around, the harder it will be to accommodate all these considerations -- the need to have a new government soon, the need to have a credible process, and the need to provide an avenue for many of TRT's leading political figures, who are not implicated in the election fraud, to contest in the new elections. End comment.

BOYCE